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ABSTRACT

This document was prepared to inform teachers about their academic freedom rights and to assist teachers who are confronted with a potential academic freedom issue. It provides (1) an essay which outlines the issues, (2) a list of significant decisions of the U.S. Courts of Appeals and their implications, (3) steps to follow when academic freedom is threatened, (4) questions and answers relevant to academic freedom, (5) calls for nominations for the National Council for the Social Studies (NCSS) Academic Freedom Award, (6) the nomination form, (7) an application for financial assistance from the NCSS Defense Fund, (8) a list of organizations supporting academic freedom, (9) an annotated bibliography, and (10) revised NCSS academic freedom policy statements. The essay, "Academic Freedom: The Issues," discusses three categories of academic freedom: freedom of association, freedom of speech outside the classroom, and freedom of speech inside the classroom. The fact is pointed out that professional associations for educators have repeatedly affirmed the importance of academic freedom and the need to exercise the right responsibly so that students are aware of opposing viewpoints and the rights of people holding these views are respected. (IS)

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ACADEMIC FREEDOM: CRISIS AND PREVENTION

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ACADEMIC FREEDOM: THE ISSUES

Academic Freedom as a Concept

As the death of Socrates attests, academic freedom in the classroom is an ancient concept. It can also be traced to 19th century Germany where the concept implied both the teachers' right to teach and the students' freedom to learn. In the beginning, virtually unlimited freedom and discretionary powers were awarded European professors.

For American educators today, however, academic freedom is an elusive and controversial concept. Professional associations issue statements reflecting their support and desire to foster education by preserving an academically free environment. Teachers at all levels identify academic freedom as an entitlement of the profession. Educators agree it is essential for adequate citizenship in a democracy because it protects teachers' and students' right to explore new and sometimes controversial ideas. As a result, universities and school systems are faced with applying what they see as a philosophical prerogative to the practical setting.

Generally, academic freedom has been separated into three categories. Academic freedom provides a university or public school teacher philosophical support for associating with various groups outside school. For example, a teacher may argue that he or she should not be terminated for participating in the gay rights movement. This expression of academic freedom has been classified in the legal sense as the freedom of association.

The second category of academic freedom relates to an individual's freedom of speech outside the classroom. Teachers believe academic freedom should provide them with an entitlement to express viewpoints on a variety of issues at faculty meetings, P.T.A. meetings, or at gatherings unrelated to school.

The third category relates directly to freedom of speech in the classroom. Teachers maintain that academic freedom entitles them to select what content to teach and what methodology to use within

their own courses and classrooms. This right may sometimes conflict with the community's assertion of a right to inculate children with traditional values and beliefs. Teachers argue in response that it is more important to foster a spirit of free inquiry than to indoctrinate students.

Professional associations have long supported the concept of academic freedom for teachers. The National Education Association and the American Federation of Teachers claim that their members have a professional entitlement to classroom academic freedom. The National Education Association maintains that public schools should "stimulate the spirit of inquiry, the acquisition of knowledge and understanding, and the thoughtful fomulation of worthy goals." It supports academic freedom and tenure as "essential to the teaching profession."

The American Association of University Professors (AAUP) has ardently claimed the principle for the college teaching profession. It issued a statement in support of academic freedom at its founding in 1915. The current AAUP policy tracks that of the earlier statement. An excerpt from the policy follows:

a. The teacher is entitled to full freedom in research and in the publication of the results, subject to the adequate performance of his other academic duties...

b. The teacher is entitled to freedom in the classroom in discussing his subject, but he should be careful not to introduce into his teaching controversial matter which has no relation to his subject.

c. The college or university teacher is a citizen, a member of a learned profession, and an officer of an educational institution. When he speaks or writes as a citizen, he should be free from institutional censorship or discipline, but his special position in the community imposes special obligations.

NCSS View of Academic Freedom

Since 1950, National Council for the Social Studies has repeatedly affirmed the importance of academic freedom. National Council for the Social Studies established its most recent policy statement regarding academic freedom in the 1974 position statement, "The Freedom to Teach and the Freedom to Learn." NCSS insists that all educators have a

professional right as well as responsibility to protect academic freedom in the classroom. An exceprt follows:

> A teacher's freedom to teach involves both the right and the responsibility to use the highest intellectual standards in studying, investigating, presenting, interpreting, and discussing facts and ideas relevant to his or her field of professional competence. As professionals, teachers must be free to examine controversial issues openly in the classroom. The right to do so is based on the democratic commitment to open inquiry and on the importance to decision-making of the expression of opposing informed views and the free examination of ideas. The teacher is professionally obligated to maintain a spirit of free inquiry, open-mindedness and impartiality in the classroom.

The NCSS statement, similar to other professional organizations', does not support blanket academic freedom rights for educators. The position paper also states:

> Professional educators must set an example in their communities that illustrates their respect for schools and classrooms as a free marketplace of ideas as well as an appreciation for the concerns of parents and other members of the community who legitimately disagree. By showing our faith as educators in the value of learning about opposing viewpoints, we can hope to achieve a society that functions according to this precept.

Now, more than ever before, social studies teachers find themselves under pressure to avoid the discussion of controversial issues in the classroom. Some teachers have been terminated and later have found themselves in court defending teaching techniques they believe to be legally protected. The courts have listened to cases involving teachers using controversial simulation activities, personality surveys, and speakers from dissident organizations. They do not always agree on what activities constitute protected academic freedom, especially at the elementary and secondary levels.

National Council for the Social Studies desires to assist teachers who find themselves confronted with a potential academic freedom controversy. This document has been prepared to provide teachers with an overview of the philosophical and legal basis for academic freedom. Additional information to help identify the extent and limitation of a classroom teacher's right to academic freedom is also included,

along with sources for legal, financial, and professional support in the event of an academic freedom dispute.

Legal Aspects of Academic Freedom

While there is considerable support among teachers and teacher associations for academic freedom as a professional entitlement, such support does not necessarily translate into a legal right. The degree of entitlement a social studies teacher has to academic freedom is largely determined by provisions in state education laws, in school board and curriculum policies, and in collective bargaining contracts. Social studies teachers need to study these provisions carefully to determine how much academic freedom they are entitled to as employees of a given district.

The decisions of courts, especially federal, are also important in defining the parameters of academic freedom since it is often argued that teachers are entitled to rights of association and expression as public employees under the First Amendment to the U.S. Constitution. It is important to note that this argument is made with respect to teachers in the public schools, not private schools. The provisions of the Constitution do not apply in the private sector. Thus teachers in private schools must rely on the provisions of their contracts and on school policies to determine the extent to which academic freedom is protected.

The U.S. Supreme Court has strongly supported the associational right of public school teachers. In Shelton v. Tucker, 1960, the Court struck down an Arkansas statute requiring teachers to file affidavits listing membership in organizations for the previous five years. Speaking for the Court, Justice Stewart wrote that "the statute's comprehensive interference with associational freedom goes far beyond what might be justified in the exercise of the state's legitimate inquiry into the fitness and competency of its teachers."

The acknowledgement in Shelton that the state has a legitimate interest in ascertaining "the fitness and competency of its teachers" illustrates that teacher academic freedom rights are not without limits. The Court acknowledged this fact more clearly in 1968 in the case of Pickering v. Board of Education, which involved the dismissal of

a teacher who wrote a letter critical of the school board and sent it to the editor of a local newspaper where it was published. While the Justices unanimously decided in favor of Mr. Pickering's right to speak out critically on public issues under the First and Fourteenth Amendments to the U.S. Constitution, they acknowledged that the school district as an employer has interest in regulating the expression rights of its employees.

Under guidelines advanced in the Pickering case, teacher expression on public issues enjoys constitutional protection so long as it does not (1) breach confidentiality, (2) undermine the superior-subordinate relationship, (3) curtail teaching effectiveness, (4) interfere with school operation, or (5) involve the making of false statements knowingly or recklessly. If the school can make a convincing case that any of those has occurred, then it may have good cause to non-renew, dismiss, transfer, or otherwise change a teacher's employment status. In effect, the teacher will have abused the right of expression thus losing constitutional protection. It is important to emphasize that the burden of justification lies with the school board in this instance since the First Amendment provides strong protection to teachers in their roles as citizens.

In later cases, the U.S. Supreme Court elaborated on the Pickering rationale. In Mt.Healthy v. Doyle in 1977, the Court ruled that if a non-tenured teacher can show that the exercise of association or expression right resulted in non-renewal, then the school district must produce other substantial reasons unrelated to the exercise of the right in a due process hearing to support its action. Two years later the Court ruled in Givhan v. Western Line Consolidated School District that private expression, such as might occur between a teacher and a principal, unless abused, is entitled to constitutional protection, just as is expression made in public.

In 1983 the Court issued two rulings cutting back somewhat on constitutional protection for teacher expression outside the classroom. In Perry Educators Association v. Perry Local Educators Association, the Court ruled in a 5-4 decision that school districts retain control over their internal mail system and, unless the school has converted

the mail system into a public forum, teachers and teacher organizations other than recognized bargaining agent may not use it to disseminate materials unrelated to school business. And in Connick v. Myers, also a 5-4 decsion, the Court reevaluated its interpretation in the Pickering decision. The Justices ruled that public employees' right to expression is protected only on matters of public concern and not on issues related to internal working conditions. Thus, a public employee who speaks out about the latter enjoys no constitutional protections and may lose his job for doing so.

Shortly after the Connick decision, the U.S. Court of Appeals for the Seventh Circuit with jurisdiction for Wisconsin, Illinois, and Indiana ordered a lower court to reconsider a verdict in a teacher expression case in light of this Supreme Court ruling. The teacher had been awarded over a half million dollars in damages against his Peoria school district after a jury agreed that his talks with school board members about job issues led to his being dismissed as high school coach, to negative teachers evaluations, and to a transfer from a high school to an elementary school. Subsequently, the trial court upheld the award; but if the court had determined that the expression was not constitutionally protected because it did not pertain to matters of public concern, then the district would have been within its right to hold the teacher's expression against him as it did. In the future, it can be anticipated that districts will seek to rely on the Connick rationale in dismissing teachers.

The U.S. Supreme Court has never heard a case directly dealing with teacher academic freedom rights in the public school classroom. Thus the "right to teach" is not a recognized constitutional right. However, a few lower courts have recognized at least some entitlement of teachers to academic freedom in the classroom, though the case law varies widely from jurisdiction to jurisdiction. Decisions of the twelve U.S. Courts of Appeals regarding academic freedom are referenced below.

Some insight into the contemporary Supreme Court's views about academic freedom in the classroom can be gleaned from two recent decisions. The first, Mercer v. Michigan State Board of Education, involved

simple affirmation in 1974 of a lower court decision rejecting a teacher's suit against a state law prohibiting discussion of birth control in the public schools. The lower court judge noted that "there is nothing in the First Amendment that gives a person employed to teach the constitutional right to teach beyond the scope of the established curriculum." While this tells us little about the Justices' thinking on the matter, it does represent support for traditional state control of the curriculum.

The second ruling provides a clearer view of how the Justices feel about state control versus an open learning environment. In Board of Education of Island Trees v. Pico, a 5-4 decision, the court affirmed a lower court ruling ordering a trial to determine why a school board removed controversial books from a junior high and high school library. The fact that five Justices ordered the case returned to the lower court lends support to the view that the First Amendment is involved when books are removed from public school libraries. This is particularly true since the four dissenting Justices argued that school boards should have complete control over the library, just as they have over the curriculum. It thus appears form the Pico decision that several Justices, though perhaps not a majority, are likely to be supportive of at least some academic freedom in the classroom for public school teachers. But we must await a definitive ruling to know for sure where the U.S. Supreme Court stands on this controversial and important issue.

In the meantime, the decisions of lower courts, along with provisions in state law, district policies, and collective bargaining contracts, will offer guidance regarding the extent to which teacher classroom academic freedom is a legal right in a given school district.

LIST OF SIGNIFICANT DECISIONS OF THE U.S. COURTS OF APPEALS AND THEIR IMPLICATIONS (As of September, 1983)

U.S. Court of Appeals for the First Circuit (Maine, New Hampshire, Massachusetts, Rhode Island, Puerto Rico): Generally supportive of some degree of teacher academic freedom to engage in classroom discussion with older students and to choose teaching methodology. Keefe v. Geanakos, 418 F.2d 359 (1969); Mailloux v. Kiley, 448 F.2d 1242 (1971). However, no clear guidelines have been developed, the court preferring to proceed on a case-by-case basis. In one case, the First Circuit supported school board power to non-renew a teacher for being too innovative and unconventional. Drown v. Portsmouth School District, 451 F.2d 1106 (1971).

U.S. Court of Appeals for the Second Circuit (New York, Vermont, Connecticut): Lukewarm support for teacher academic freedom. Two cases support teacher right to wear symbolic armbands of protest and refusal to salute the flag. James v. Brd. of Educ., 461 F.2d 566 (1972); Russo v. Central School District, 469 F.2d 623 (1972). But in other cases, the Second Circuit has supported school board authority to remove books from the school library, impose a teacher dress code, and regulate student newspapers. See respectively, Presidents Council v. Community Sch. Brd., 467 F.2d 289 (1972). Note: this case may have limited value in light of the U.S. Supreme Court's 1982 ruling on school library censorship in Brd. of Educ. of Island Trees v. Pico, 102 S. Ct. 2799; East Hartford Educ. Ass'n. v. Brd. of Educ., 562 F.2d 856 (1977); and Trachtman v. Anker, 563 F.2d 512 (1977).

U.S. Court of Appeals for the Third Circuit (Pennsylvania, New Jersey, Delaware, Virgin Islands): Has not heard a case directly involving teacher academic freedom. However, in Seyfried v. Walton, 668 F.2d 214 (1981), the Third Circuit ruled that a school superintendent's cancellation of the school play "Pippin" is within traditional school authority over the curriculum and does not infringe on students' First Amendment rights.

U.S. Court of Appeals for the Fourth Circuit (W. Virginia, Virginia, Maryland, North Carolina, South Carolina): Has held that a teacher's public statements regarding his homosexual status did not justify a transfer from teaching to administration. However, because he withheld information about his homosexuality on his job application, he was entitled to no relief. Acanfora v. Brd. of Ed. of Montgomery Cnty., 491 F.2d 498 (1974). This circuit has recognized broad authority of school board over teacher classroom behavior. Frison v. Franklin Cnty. Brd. of Ed., 596 F.2d 1192 (1979).

U.S. Court of Appeals for the Fifth Circuit (Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, Canal Zone. Note: in 1981 this circuit was split into two parts with the newly created Eleventh Circuit responsible for federal cases arising in Alabama, Georgia, and

Florida, The first two cases cited below were decided before the split and thus are binding in both the new Fifth and Eleventh Circuits): Strong support for teacher associational activities, Hastings v. Bonner, 578 F.2d 136 (1978), and strong support for teacher classroom discussion rights, even on controversial issues. To justify a negative employment decision based on exercise of classroom discussion rights, school board must show teacher ineffectiveness to teach has resulted. Kingsville Indep. Sch. Dist. v. Cooper, 611 F.2d 1109 (1980). This circuit has also supported conditional right of teachers to circulate literature on campus. Hall v. Brd. of Sch. Comm'rs., 681 F.2d 965 (1982).

U.S. Court of Appeals for the Sixth Circuit (Michigan, Ohio, Kentucky, Tennessee): In disapproving school board library censorship in a 1976 case, this circuit appeared to support a teacher's right to utilize individual teaching methodology, lead classroom discussion, and assign supplemental readings. Minarcini v. Strongsville City Sch. Dist., 541 F.2d 577 (1976). But see Gordon v. Warren Consol. Brd. of Ed., 706 F.2d 778 (1983) where use of undercover policemen in classrooms of teachers known to have "liberal reputations" in and of itself does not constitute interference with teacher academic freedom. This circuit has strongly supported a teacher's expression rights outside of the classroom while acting in the capacity of a union representative. Hickman v. Valley Local Sch. Dist., 619 F.2d 606 (1980); Columbus Ed. Ass'n. v. Columbus City Sch. Dist., 623 F2.d 1155 (1980). But the circuit has refused to accord protected status to a teacher's remarks made to an unauthorized assembly of students, Whitsel v. Southeast Local Sch. Dist., 484 F.2d 1222 (1973), or to a teacher's racially critical remarks made to administrators. Anderson v. Evans, 660 F.2d 153 (1981). See also Reichert v. Draud, 701 F.2d 1168 (1983) where Sixth Circuit agreed that reasons other than protected associational activity justified district's changing teacher's schedule.

U.S. Court of Appeals for the Seventh Circuit (Wisconsin, Illinois, Indiana): Generally supportive of school board authority over teacher classroom behavior. Brubaker v. Brd. of Ed., 502 F.2d 973 (1974); Palmer v. Brd. of Educ., 603 F.2d 1271 (1979); Zykan v. Warsaw Community Sch. Corp., 631 F.2d 1300 (1980). See also Smith v. Brd. of Ed. of Urbana Sch. Dist., 708 F.2d 258 (1983).

U.S. Court of Appeals for the Eighth Circuit (North Dakota, South Dakota, Nebraska, Minnesota, Iowa, Missouri, Arkansas): Generally supportive of school board authority over teacher classroom behavior. Ahern v. Brd. of Educ.,456 F.2d 399 (1972); Birdwell v. Hazelwood Sch. Dist., 491 F.2d 490 (1974). But see Pratt v. Ind. Dist. No. 831, Forest Lake, 670 F.2d 771 (1982) where the Eighth Circuit ruled that school authorities may not ban the film "The Lottery" from the curriculum for the ideas it contains since doing so violates student First Amendment rights to receive information and to be exposed to controversial ideas. See also McGee v. South Pemiscot

School District, 712 F.2d 339 (1982) where the Eighth Circuit decided in favor of a school teacher who had been dismissed after writing a local newspaper in protest to a school board's decision to drop junior high track. This circuit has shown strong support for teacher associational rights in cases involving members of a teacher's union. McLaughlin v. Tilendis, 398 F.2d 287 (1966); Gieringer v. Center Sch. Dist., 477 F.2d 1164 (1973); Greminger v. Seaborne, 584 F.2d 275 (1978). But see Wilson v. Pleasant Hill Sch. Dist., 465 F.2d 1366 (1972).

U.S. Court of Appeals for the Ninth Circuit (Alaska, Washington, Montana, Oregon, Idaho, Nevada, California, Arizona, Hawaii, Guam): Held in Bernasconi v. Tempe Elem. Sch. Dist. No. 3, 548 F.2d 857 (1977), that a teacher's transfer to another school was triggered by her complaints about the special education program and thus was an unconstitutional retaliation for exercising her First Amendment rights. In an earlier case, Gray v. Union Cnty. Intermed. Ed. Dist., 520 F.2d 803 (1975), the Ninth Circuit held that a teacher whose contract was not renewed had abused her First Amendment rights in connection with counseling a pregnant mentally retarded student. And in Nicholson v. Brd. of Ed., 682 F.2d 858, this circuit upheld the firing of a journalism teacher who refused to submit articles on sensitive topics to school officials and failed to follow school rules in several other respects. See also Johnson v. Stuart, 702 F.2d 193 (1983), holding that students, but not teachers, have standing to challenge textbook selection statute.

U.S. Court of Appeals for the Tenth Circuit (Wyoming, Utah, Colorado, Kansas, Oklahoma, New Mexico): Some recognition given to teacher right of commentary and choice of teaching methodology with regard to high school students, though support is strong for school board curricular control otherwise. Adams v. Campbell Cnty. Sch. Dist., 511 F.2d 1242 (1975); Powers v. Mancos Sch. Dist., 539 F.2d 38 (1976); Cary v. Brd. of Ed., 586 F.2d 535 (1979); Simineo v. Sch. Dist., No. 16, 594 F.2d 1353 (1979). (See also Bertot v. Sch. Dist. No. I, 522 F.2d 1171 (1975) where this circuit supported a teacher's right to work with students in the production of an underground newspaper. In 1982, the Tenth Circuit held in Childers v. Ind. Sch. Dist. No. I, 676 F.2d 1338, that a First Amendment claim is implicated when a teacher is reassigned in retaliation for her actions in forming a union.

U.S. Court of Appeals for the Eleventh Circuit (Alabama, Georgia, Florida): Strong support for teacher associational and classroom discussion rights see the commentary regarding the Court of Appeals for the Fifth Circuit). See also Allen v. Autauga Cnty. Brd. of Ed., 685 F.2d 1302 (1982).

U.S. Court of Appeals for the District of Columbia Circuit: No cases involving teacher academic freedom have been reported.

STEPS TO FOLLOW WHEN ACADEMIC FREEDOM IS THREATENED

It is wise, of course, to know the limits on teacher academic freedom within the school before a controversy arises. Social studies teachers are urged to check tneir school board policies, curriculum guides, and collective bargaining contracts for mention of academic freedom. Look under such categories as "academic freedom," "controversial issues," "professional standards," and "teaching materials and strategies." If nothing is found, question the appropriate administrator about school policy. If what you learn seems contrary to what you believe to be the law, you have a difficult decision to make. You can follow school procedures, choosing not to endanger your position as a teacher. You can seek to have school policies changed. Or you can engage in the questioned activity, trusting that if a challenge arises, you will be able to defend your action successfully. Choose carefully, for once a decision is made you may have no opportunity to turn back.

If a challenge occurs to something you have done as a teacher, seek first a clarification of the charges and your rights to due process if your employment could be in jeopardy. Once you know exactly what you are being accused of doing, using a timeframe, assemble a detailed description of the events leading up to and surrounding the challenged activity. Do not postpone doing so. Make such a memorandum of events while they are still clear in your mind. If there are documents involved, for example, the use of supplementary readings in a modern problems class, attach them to your memorandum. In the event of a formal hearing on the matter, your representative will have a far better chance of defending you successfully if your version of what happened has been thoroughly recorded and documented.

Depending on the nature of the challenge, decide what course of action to follow. If the challenge comes from the school administration and seems at odds with school policy, determine whether you can file a grievance under the school's grievance policy. If the challenge takes the form of a negative evaluation of your performance and could result in a non-renewal or dismissal, determine what administrative

remedies are available to you under board policies, or, where relevant, a collective bargaining contract. In most instances, tenured teachers are entitled to extensive due process remedies prior to a negative employment decision. In many districts, nontenured teachers also have recourse to due process procedures.

If the challenge could have serious consequences for your employment, it will be best to secure outside advice and counsel. Contact the legal representative of your collective bargaining agent or professional association or contact National Council for the Social Studies for advice if you need it. The NCSS Legal Defense Fund may be able to provide you with financial support for your initial visit to an attorney. In some situations it may be necessary to hire an attorney who is skilled in school law and familiar with academic freedom cases.

NCSS has been in the forefront of support for the academic freedom rights of social studies teachers. For example, in a 1974 Texas federal district court ruling, Sterzing v. Ft. Bend Independent School District, NCSS provided funds through the Legal Defense Fund and expert testimony in successful support of Henry Sterzing, who had been dismissed because of his controversial teaching methods.

If you believe in the correctness of your position, persist in your quest for redress. Not only will you assure yourself that you have left no stone unturned in advancing your cause, you will also help your colleagues clarify the professional prerogatives they enjoy as social studies teachers.

ACADEMIC FREEDOM: QUESTIONS AND ANSWERS

Q. What rights to academic freedom do I have?

A. Every citizen has a right to free speech and association as guaranteed by the First Amendment of the U.S. Constitution. However, this right does not provide you with an unrestricted right to academic freedom in the classroom. In fact, since the U.S. Constitution does not mention academic freedom specifically, you must look elsewhere to define the limitations and extent of your right.

You should begin by examining your state education laws, school board and curriculum policies, and collective bargaining agreements.

Finally, you should examine the decisions of the state and federal courts for your area. They may also define the parameters of your right.

Q. How should I decide what topics, methods, or materials I should use with my students?

A. Local communities through their representation on school boards have primary responsibility for defining the curriculum. Teachers are obligated to teach what the community decides. Teachers also have a professional and legal obligation to incorporate state curriculum mandates. Teachers should use state or district prepared curriculum guidelines in selecting topics, methods, and materials to use in class.

In some areas, courts have provided teachers with the right to select materials or lead classroom discussion even on topics or issues the school district does not want presented. The cases are few in number, however, and should be reviewed in their entirety. For information about these cases, consult your local professional associations, collective bargaining agent, or schools of education.

Q. If a parent challenges me about a topic, strategy, or material, how should I respond?

A. Anna Ochoa (see list of supplementary readings) suggests you be prepared to explain the objectives and justification for each lesson. District guidelines and state district adopted materials should support the use of the questioned material. If you are considering introducing a topic, strategy, or supplementary material that could be considered controversial, you should first seek the approval of your department chairperson. You should also acquire approval of appropriate consultants and principal(s). The more backing you have, the easier your task of convincing the parent that you have acted properly and professionally. This may be enough to resolve the parent's concern.

If the parent's concern persists and focuses on the use of library or supplementary materials, your district may have procedures for filing a formal complaint. Alert the parent to the appropriate board policy.

Q. Should I report the incident to my principal? To the superintendent? To the school board? To my collective bargaining unit?

A. In most cases you have a professional obligation to keep your department chairperson principal informed of parental concerns. As a result, report the incident to the appropriate individuals. It is at the discretion of the administrator whether to report the case to the superintendent or school board.

It is probably not necessary to contact your collective bargaining agent unless it appears a formal complaint may be filed against you. Contacting the collective bargaining agent too early may create an adversary relationship before one exists between you and the parent or between you and the district. Hopefully, the situation may be a simple communication problem that can be resolved informally.

Q. What procedures should I use in handling instruction (including classroom discussion) on controversial subjects?

A. The first essential step is to choose your topics and materials carefully. NCSS suggests considering the following: maturity and experiential level of students, student interest level, appropriateness for grade level and course, availability of materials, time available, and community values. Courts are inclined to review the same considerations in contest cases.

If a controversial subject is selected, it should be presented in a professional manner. Remember, you have an obligation to expose students to a variety of ideas. As a result, be sure that all sides of the issue are presented. As an individual, you are permitted to voice your opinion; however, that opinion must be labeled as such and open for discussion.

Be cognizant of your special obligation to maintain and preserve the spirit of inquiry. Try not to practice self-censorship in order to avoid an uncomfortable situation. (See Nelson citation in Annotated Bibliography.)

Q. Under what circumstances should I seek the advice of an attorney? How do I identify an appropriate attorney if one is needed?

A. You should only seek the advice of an attorney if a formal action is threatened against you. If a collective bargaining agent is available, seek their advice first. You can locate an appropriate attorney through the help of your collective bargaining agent and/or professional associations. You want an attorney well versed in school law with a successful track record in defending teachers.

Q. If a parent does not want a child to learn about a particular topic or to be involved in a particular activity, should I provide an alternative assignment?

A. Each assignment you provide a student should be consistent with the goals and objectives outlined by the school district. As a result, you are probably not obligated to offer a student an alternative assignment.

If you choose to offer an option, or are required by the district to do so, be sure to select one that does not undermine the purpose of the lesson. A teacher must be sensitive to requests based on religious objections. Courts are much more responsive to parental complaints when their constitutional right to free exercise of religion is involved.

NATIONAL COUNCIL FOR THE SOCIAL STUDIES

ACADEMIC FREEDOM AWARD

CALL FOR NOMINATIONS

Purpose: "To honor an individual who has made a distinguished contribution to the field of social studies by defending the principles of intellectual freedom".

Sponsorship: The NCSS Academic Freedom Award is supported by Social Issues Resources Series, Inc. The winning nominee will receive $1500.00, a plaque, and travel expenses to attend the Annual Meeting where the award is presented.

Eligibility:

1. The award may be given to an individual who defends intellectual freedom in a specific controversy or to an individual who fosters intellectual freedom through personal advocacy.
2. While preference will be given to social studies educators, NCSS membership is not required. Persons in fields other than social studies may also be considered.

Procedures:

1. Any individual may nominate a candidate for the award.
2. For nominations form, please contact:

   NCSS Executive Director
   3501 Newark Street, NW
   Washington, DC 20016
   202-966-7840
3. Nominations will be reviewed and verified by an NCSS Selection Committee consisting of the NCSS President, the NCSS Board of Directors member who serves as liaison to the NCSS Academic Freedom Committee and the Chair of the NCSS Academic Freedom Committee (who will also serve as chair of the Selection Committee).
4. Nominations must be received by the NCSS office no later than May 15.

Nomination Form
for the
Award for the Defense of Academic Freedom
National Council for the Social Studies

The purpose of this annual award is to recognize an individual who has contributed in a significant way to the protection of academic freedom in ways related to social studies education. Candidates for the award may include a social studies educator who is involved in a particular controversy but it may also include those who have persistently heightened issues surrounding censorship/academic freedom by their writings, speeches or other advocacy activities. NCSS membership is not required. Return to: Academic Freedom Award Selection Committee, National Council for the Social Studies, 3501 Newark Street, NW, Washington, DC 20016. DEADLINE FOR SUBMISSION OF NOMINATIONS AND SUPPORTING DOCUMENTATION: MAY 15.

NOMINEE'S NAME _____

ADDRESS _____

_____

PHONE _____

Answer Questions 1-8 only if your nominee has been directly involved in a controversy. Otherwise, go to Question 9. Attach additional sheets as needed.

1. When did the incident take place?

2. Where? City: _____ School District: _____

   State: _____

3. What was the issue that sparked the controversy?

4. What additional general background information would be helpful to place the incident in context?

5. Was the individual acting alone or as part of a group?

   If he/she was part of a group what was his/her role?

6. Was the attack and subsequent defense part of a larger organized effort? Please describe.

7. Has the controversy been resolved?

   If yes, how?

   If no, what is the current status of the problem?

8. What personal courage has been displayed by the proposed recipient that would distinguish him/her?

Answer Question 9 if the nominee has engaged in advocacy that has contributed to the academic freedom.

9. Describe as completely as possible the efforts of your nominee in relation to academic freedom.

Documentation (IMPORTANT)

In order to grant an award, careful documentation for each nominee is needed. Please submit letters of support, relevant publicity and any other relevant documentation.

10. Is the nominee currently employed? _____

11. Name and address of current employer of the nominee:

_____

_____

_____

_____

12. Current position of the nominee: _____

13. Name and address of the person who is making the nomination:

_____

_____

_____

_____

NATIONAL COUNCIL FOR THE SOCIAL STUDIES
DEFENSE FUND

APPLICATION FOR FINANCIAL ASSISTANCE

Instructions: Please type or print. Fill in all answers completely. Should additional space be needed to answer a question, attach additional sheets with name and number of question at top of each page.

Section I - General Information — Application by individual(s)

1. Name of applicant _____ Home Telephone _____

2. Home address _____ _____
(street) (city/state/zip)

3. Present business address _____
(street) (city/state/zip)

4. Number of years taught in district ____ Do or did you have tenure ____ Y/N

Total no. of years in teaching ____

Highest degree earned (B.A.? M.A.? etc.) ____

5. Agency or district taking action against you _____

_____ Phone _____

Address _____

6. Name of immediate supervisor in above situation _____

Title _____

7. Name and address of principal (or college dean) _____

_____

8. Name and address of superintendent (or chief executive officer of institution) _____

9. Level of certificate held _____ Is this appropriate for position held? _____

10. Are you a member of NCSS? Yes___ No___ Or any of its regional, state, or local affiliates? Yes___ No___
List names of associations and all dates during which you were/are a member:

_____ _____

_____ _____

Section II - Information on Complaint

1. Brief statement of your grievance or complaint and the underlying difficulties which resulted in your present problems: _____

_____

_____

2. Brief statement of the reasons given by the school district in taking or threatening adverse action against you: _____

_____

_____

3. Have you commenced legal action? If so, please fill in the following answers and attach copies of all pleadings filed in your case by all parties.

Name of adverse person or agency involved in legal action or proceedings:

_____

Date and place of hearing, if such has been held or scheduled: _____

_____

4. Has legal action or proceeding or a criminal prosecution been commenced against you? If so, please fill in the following answers.

Name of person or agency who has filed or is about to file a legal action or proceeding against you, or if a criminal proceeding has been or is about to be commenced against you, the name of the complaining witness and the attorney in charge of the prosecution: _____

_____

Statement of formal complaints or charges brought against you, including Code Sections or legal authority under which charges are preferred:

_____

5. Did you request a hearing? Yes ____ No ____ Date of request: _____

Before which individual or administrative body? _____

Was hearing: Granted? ____ Denied? ____ No response? ____

Date and place of hearing _____

If hearing was held, was it transcribed? Yes____ No____ Was hearing open to the public? Yes____ No____
Were you allowed to have counsel? Yes____ No____

6. Name and address of your attorney: _____

_____ Phone _____

Attorney's estimate of fees and costs $_____

NOTE: NCSS must be consulted in selection of an attorney if you have not obtained one yet.

7. Name and addresses of witnesses supporting you, if any: _____

_____

_____

8. Names and addresses of other persons having definite and specific information pertaining to your case: _____

_____

_____

9. Has your Local, State, or National teachers association and/or the appropriate committee studied your problem?

Local: Yes____ No____ State: Yes____ No____ National: Yes____ No____

Have they taken official action?

Local: Yes____ No____ State: Yes____ No____ National: Yes____ No____

If "Yes," what action? _____

(If financial support, indicate amount) _____

If "No," why not? _____

10. If a court complaint has been filed in your behalf or against you, indicate the name and location of the court and, if possible, the judge hearing the case: _____

_____

_____

11. On the back of this form typewrite an account of your legal difficulty. Write in form of a comprehensive chronological statement of facts. Give dates and places where events were alleged to have occurred, including reasons advanced by school authorities for the adverse action, when and in what manner you were notified of such determinations and other pertinent data.

Use additional pages if necessary.

Section III - Legal Fees Request and Promissory Note Form

I declare that the information in Sections I & II is accurate to the best of my knowledge, and I hereby request NCSS Defense Fund assistance in obtaining the payment of legal fees and costs.

I understand that any funds paid to me by the NCSS Defense Fund of the National Council for the Social Studies for legal fees or costs will be reimbursable to NCSS from any funds recovered by me in the matter complained herein. whether by compromise, litigation or settlement, and that this application shall constitute a lien against such funds.

Date: _____ Signature _____

RETURN APPLICATION TO: NCSS DEFENSE FUND
National Council for the Social Studies
3501 Newark Street, NW
Washington, DC 20016

10/84

ORGANIZATIONS SUPPORTIVE OF ACADEMIC FREEDOM

Each organization listed below may have a position paper on academic freedom, committee on academic freedom, or an interest in protecting academic freedom in the education sphere.

American Association of School Administrators
1801 N. Moore Street
Arlington, VA 22209
(703) 528-0700

American Association of University Professors
One Dupont Circle
Washington, DC 20036
(202) 466-8050
Contact Academic Freedom & Tenure Committee

American Civil Liberties Union
132 W. 43rd Street
New York, NY 10036
(212) 944-9800
Contact Academic Freedom Committee

American Federation of Teachers
11 Dupont Circle, NW
Washington, DC 20036
(202) 797-4400

American Library Association
Office of Intellectual Freedom
50 East Huron Street
Chicago, IL 60611
(312) 944-6780
Request position paper, "Library Bill of Rights"

Association for Educational Communications and Technology
1126 16th Street
Washington, DC 20036
(202) 466-4780

International Reading Association
P.O. Box 8139
800 Barksdale Road
Newark,DE 19711
(302) 731-1600

National Association of Elementary School Principals
Executive Offices
1801 N. Moore Street
Arlington, VA 22209
(703) 620-6100
Request NAESP Censorship Resolution

National Council of Teachers of English
Executive Director: John C. Maxwell
1111 Kenyon Road
Urbana, IL 61801
(217) 328-3870
Request position paper, "The Student's Right to Read"

National Education Association
1201 16th Street, NW
Washington, DC 20036
(202) 833-4000
Request NEA Resolutions: Selection of Materials and Teaching Techniques and Academic Freedom

People of the American Way
1015 18th Street, NW
Suite 300
Washington, DC 20036
(202) 822-9450

ANNOTATED BIBLIOGRAPHY

Doyle, Robert P. "Censorship and the Challenge to Intellectual Freedom," Principal, 61:3, (Jan. 1982), p. 8-11.

Article outlines various censorship efforts and current court involvement. Also includes list of organizations supportive of academic freedom for teachers and students. Identifies three precautionary measures school should install.

Hirsh, Stephanie Abraham; Kemerer, Frank R. "Academic Freedom in the Classroom," Educational Leadership, 39:5, (February, 1982), p. 375-77.

Authors examine issue of academic freedom as it relates to public school classroom. Existing legal support for the right is outlined.

Kemerer, Frank R.; Hirsh, Stephanie Abraham. "The Developing Law Involving the Teacher's Right to Teach," West Virginia Law Review, 84:1, (Fall, 1981), p. 31-90.

Authors provide extensive legal documentation in a discussion of the issue. Major court cases are cited and examined.

Mahon, J. Patrick. "Selecting Curriculum Materials--Guidelines Educators Can Use When Challenged," NASSP Bulletin, 65:445, p. 96-100, May, 1981.

This principal cautions readers that educators in the nation's schools can expect to be challenged in the areas of material selection or implementation of curriculum. The author provides ten recommended procedures school districts may consider adopting to minimize the detrimental effects of such controversies. Guidelines relate to the following concerns: book and material selection, curriculum implementation, discussion of controversial issues, and the role of the administrator.

Nelson, Jack. "Academic Freedom and Teacher Self-Censorship," The Social Studies Professional, (September, 1983), p. 25.

Article argues that the purpose of social studies education requires academic freedom for teachers. He also examines the impact of teacher self-censorship as it impacts the goal of academic freedom.

Ochoa, Anna S. "Censorship: Does Anybody Care?" Social Education, 43:4, (April, 1979), p. 304-309.

Presidential address to 1978 House of Delegates. Speech focuses on three areas: the censors and censored material, the rights of teachers, and what needs to be done by professional associations.

Stelzer, Leigh and Joanna Banthin. "Teachers Have Rights, Too: What Educators Should Know About School Law," ERIC Document #199 144. Washington, DC Dept. of Education, 1980.

This book addresses law related concerns of school teachers. Chapters six and seven present a legal discussion of academic freedom and free speech for pubic school teachers.

Teaching About Controversial Issues. ERIC Fact Sheet No. 10 (September, 1983).

This fact sheet was written in response to the need for teachers to know how to provide instruction on controversial issues. Additional resources are cited.

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Academic Freedom:

NCSS Policy Statements

Revised

The Freedom to Teach and the Freedom to Learn

Academic Freedom and the Social Studies Teacher

Academic Freedom: A Policy Statement

The NCSS Legal Defense Fund

NATIONAL COUNCIL FOR THE SOCIAL STUDIES
3501 Newark Ave., N.W., Washington, D.C. 20016

"The purpose of the association is to promote the study of the problems of teaching the social studies to the best advantages of the students in the classroom; to encourage research, experimentation, and investigation in these fields; to hold public discussions and programs; to sponsor the publication of desirable articles, reports, and surveys; and to integrate the efforts of all of those who have similar purposes through the efforts and activities of its members and their cooperative activities with others interested in the advancement of education in the social studies."

Constitution of the National Council for the Social Studies,
Article I, Section 2.

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Academic Freedom: NCSS Policy Statements

Academic freedom is not just a passing concern for a teacher of social studies. It is the protection a free society offers so that youth can seek truth in some of the most controversial topics in the school curriculum. It is also the assurance a democracy gives to the teacher that the search for truth is indeed of value for the whole society, no matter what the short-term discomfort. This freedom is reinforced by the responsibility to insure every student the right to learn. It is also clear that such responsibilities place reasonable limits on the right to teach freely.

Academic freedom is closely related to the areas of the out-of-class activities of teachers, and to the application of due process in teacher dismissals.

Eight times in the past twenty years the National Council for the Social Studies has taken a strong position in defense of academic freedom.* Four of the NCSS's policy statements are presented in this booklet.

* "The Treatment of Controversial Issues in the Schools," *Social Education,* Vol. XV, No. 5 (May, 1951), pp. 232-236; "Freedom to Learn and Freedom to Teach," *Social Education,* Vol. XVII, No. 5 (May, 1953), pp. 217-219; "Action to Uphold Freedom to Learn and Freedom to Teach," *Social Education,* Vol. XX, No. 8 (December, 1956), pp. 371-372, 374; "Resolutions Adopted by the House of Delegates," *Social Education,* Vol. XXIX, No. 3 (March, 1965), pp. 174-175; "Academic Freedom: A Policy Statement," *Social Education,* Vol. XXXI, No. 7 (November, 1967), p. 605; "Academic Freedom and the Social Studies Teacher," *Social Education,* Vol. XXXV, No. 4 (April, 1971), pp. 378-380, and in Vol. XXXIV, No. 4 (April, 1970), pp. 489-491; "The NCSS Legal Defense Fund," *Social Education,* Vol. XXXV, No. 4 (April, 1971), pp. 374-377; "NCSS Position Statement on the Freedom To Teach and The Freedom To Learn," *Social Education,* Vol. XXXIX, No. 4 (April, 1975), p. 240.

NCSS Position Statement on the Freedom To Teach and the Freedom To Learn*

Basic to a democratic society are the freedoms of teachers to teach and of students to learn. Especially as they apply to pre-collegiate public education, court decisions, unfortunately, have not consistently supported these rights throughout the nation. It will take many years of litigation to delineate precisely the areas of teaching and learning that are protected. The present lack of judicial clarity places a heavy burden of responsibility on pre-collegiate educators. And their professional organizations have special responsibilities to provide statements on these freedoms, as well as assistance, legal and otherwise, for teachers willing to risk careers to exercise their freedom to teach and to protect their students' freedom to learn.

A teacher's freedom to teach involves both the right *and* the responsibility to use the highest intellectual standards in studying, investigating, presenting, interpreting, and discussing facts and ideas relevant to his or her field of professional competence. As professionals, teachers must be free to examine controversial issues openly in the classroom. The right to do so is based on the democratic commitment to open inquiry and on the importance to decision-making of the expression of opposing informed views and the free examination of ideas. The teacher is professionally obligated to maintain a spirit of free inquiry, open-mindedness, and impartiality in the classroom.

Many state legislatures, boards of education, and school administrators have shown disregard for the teacher's professional role in dealing with controversy in the classroom. Consequently, it is important that the National Council for the Social Studies, as a professional organization, act forcefully to insure teachers a significant role in determining educational policy. If the freedom to teach is to be meaningful, teachers must participate in decisions regarding the organization, presentation, and evaluation of instruction and in determining the competency of other teachers and administrators. The same is true of the freedom to learn: Commitment to it demands student involvement in curricular decisions, even in the evaluation of instruction.

Although the central concerns in evaluating teachers should be the quality of their performance in their classrooms and their relationships with their students, teachers should be encouraged to participate in community affairs. Such participation is important in its own right as well as for the modeling of active citizenship for students. Such participation is, indeed, a part of the freedom to teach; and to encourage it, boards of education must make clear that judgments of professional competence will not be biased by the teachers' personal religious, political, social and/or economic beliefs. In light of their role as agents of a democratic society, teachers' expressions must stop short of advocating the use of violence to achieve social or political change, but the legitimacy of the use of violence must still be considered a legitimate topic for classroom discussion. Boards of education and professional organizations have an obligation to protect teachers from unjustified attacks based on classroom performance or community participation. Dispatching the obligation calls for the education of members of the community, including students, concerning the legitimate roles of teachers as professional educators and concerned citizens, as well as support, moral and financial, for teachers when such attacks occur.

Ultimately, freedom to teach and to learn will exist only if a continuing effort is made to educate all Americans regarding these important freedoms. Professional educators must set an example in their communities that illustrates their respect for schools and classrooms as a free marketplace of ideas as well as an appreciation for the concerns of parents and other members of the community who legitimately disagree. By showing our faith as educators in the clash of opposing viewpoints, we can hope to achieve a society that functions according to this precept.

* Prepared by the Academic Freedom Committee and approved by the National Council for the Social Studies Board of Directors in 1974.

Academic Freedom and the Social Studies Teacher*

I. Preface

Democracy is a way of life that prizes alternatives. Alternatives mean that people must make choices. Wisdom with which to make choices can come only if there are freedom of speech, of press, of assembly, and of teaching. They protect the people in their right to hear, to read, to discuss, and to reach judgments according to individual conscience. Without the possession and the exercise of these rights, self-government is impossible.

A teacher's academic freedom is his right and responsibility to study, investigate, present, interpret, and discuss all the relevant facts and ideas in the field of his professional competence. This freedom implies no limitations other than those imposed by generally accepted standards of scholarship. As a professional, the teacher strives to maintain a spirit of free inquiry, open-mindedness, and impartiality in his classroom. As a member of an academic community, however, he is free to present in the field of his professional competence his own opinions or convictions and with them the premises from which they are derived.

The democratic way of life depends for its very existence upon the free contest and examination of ideas. In the field of social studies, controversial issues must be studied in the classroom without the assumption that they are settled in advance or there is only one "right" answer in matters of dispute. The social studies teacher is obligated to approach such issues in a spirit of critical inquiry rather than advocacy.

The central issue in considering a teacher's fitness is the quality of his performance in the classroom and his relationship with his students. A teacher's personal religious, political, social, and economic beliefs should not be criteria for evaluating his professional competence.

Like any other professional or nonprofessional worker, the teacher should be free to organize with others to protect his interests and to join or not to join professional associations and unions for such purposes. Any attempt to prevent the establishment of such an organization, to hamper its activities or to discriminate against its members, is a serious infringement on the freedom of teachers.

In his private capacity the teacher should be as free as any other citizen to participate in political, religious, and social movements and organizations, and in any other lawful activity; and to hold and to express publicly his views. The fact that he is a teacher must not exclude him from activities open to other citizens; on the contrary, his position imposes on him the two-fold duty of advancing new and useful ideas and of helping to discard those which are outworn.

II. The Study of Controversial Issues

Freedom means choice. The democratic process is concerned with the ways in which individuals and groups in a free society grapple with problems, resolve conflicting opinions, and select among alternatives. Such decisions involve values and goals as well as procedures and facts.

It is the prime responsibility of the schools to help students assume the responsibilities of democratic citizenship. To do this, education must impart the skills needed for intelligent study and orderly resolution of the problems inherent in a democratic society. Students need to study issues upon which there is disagreement and to practice analyzing problems, gathering and organizing facts, discriminating between facts and opinions, discussing differing viewpoints, and drawing tentative conclusions. It is the clear obligation of schools to promote full and free contemplation of controversial issues and to foster appreciation of the role of controversy as an instrument of progress in a democracy.

The study of controversial issues should develop the following skills and attitudes:

1. The desire and ability to study relevant problems and to make intelligent choices from alternatives.

* Prepared by the Academic Freedom Committee of the National Council for the Social Studies and approved by the Board of Directors in 1969.

2. The desire and ability to use rational methods in considering significant issues.
3. The willingness to recognize that differing viewpoints are valuable and normal.
4. The recognition that reasonable compromise is often an important part of the democratic decision-making process.
5. The skill of analyzing and evaluating sources of information — recognizing propaganda, half truths, and bias.

III. The Rights and Responsibilities of Teachers

The American academic tradition which stresses the free contest of ideas is at the very heart of curriculum development and classroom teaching. Hence, teachers have special rights and bear special responsibilities.

It is the right of teachers:

To participate in the development of curriculum and the selection of teaching materials.

To select for classroom study controversial issues related to the curriculum and appropriate to the maturity, and intellectual and emotional capacities of the students.

To have access to adequate instructional resources so that all sides of an issue can be presented adequately.

To call upon teaching colleagues, administrators and professional organizations for assistance and advice.

To have a written policy furnished by the local Board of Education which:

a) clearly states the right of students to learn and of teachers to teach

b) provides guidelines and safeguards for the study of controversial issues

c) details procedures for investigating criticism of the study of controversial issues

d) insures fair procedures and due process should complaints arise about materials or methods of instruction.

To teach in his area of academic competence without regard to his personal beliefs, race, sex, or ethnic origin.

To express his own point of view in the classroom as long as he clearly indicates it is his opinion and is willing to explain his position.

To work in a climate conducive to rational and free inquiry.

To have his professional competence in dealing with controversial issues judged with reference to the context within which any specific activity occurred.

To exercise his rights as a citizen including the rights to support any side of an issue or any candidate for public office, and to seek and to hold partisan and non-partisan public and professional positions.

It is the responsibility of teachers:

To insure every student his right to confront and study controversial issues.
To protect the right of every student to identify, express, and defend his opinons without penalty.

To establish with their students the ground rules for the study of issues within the classroom.

To promote the fair representation of differing points of view on all issues studied.

To insure that classroom activities do not adversely reflect upon any individual or group because of race, creed, sex, or ethnic origin.

To teach students *how* to think, not *what* to think.

To adhere to the written policy concerning academic freedom established by the Board of Education.

To give students full and fair consideration when they take issue with teaching strategies, materials, course requirements, or evaluation procedures.

To exemplify objectivity in the search for truth, to demonstrate respect for minority opinion, and to recognize the function of dissent in the democratic process.

IV. Threats to Academic Freedom

Actions leading to a loss of academic freedom can be classified as those involving the teacher, educational materials, the curriculum, and resource personnel.

A. The Teacher

The academic freedom of the teacher may be abrogated by a number of situations.

Teachers may censor themselves in anticipation of possible negative reactions and avoid study of germane issues which are likely to generate controversy. They may react to attention, criticism, or pressures from the community at large or from their peers by becoming timorous. Such subtle withdrawal of the teacher from the battle of ideas is an abdication which diminishes the reality of academic freedom for all teachers.

Whenever opportunities for professional development are granted to some and denied to others in similar circumstances, the basis for decision may involve issues of academic freedom. That academic freedom is indeed the issue in any or all such cases should not be presumed. However, the obligation to scrutinize the procedures used, the basis for the decisions, and the validity of the procedures themselves to see if academic freedom has been breached must not be abdicated by responsible members of the academic community.

Even though an individual teacher may not protest, it is the responsibility of the profession to remain alert to possible infringements upon academic freedom. Loss of academic freedom by one member of the profession diminishes the freedom of all.

Legislative and administrative investigations have a place in our decision-making processes when correctly used and when the basic rights of the individual are protected. However, proceedings which call upon the teacher to testify publicly about beliefs and past associations may have a coercive influence. In addition to pressures which may be brought to bear upon individuals, there are actions which endanger the entire academic community. These include legislative and administrative investigations which single out the teaching profession as a special group.

B. Educational Materials

The availability of adequate and diversified materials is essential to academic freedom. Selection, exclusion, or alteration of materials may infringe upon academic freedom. Official lists of supplementary "materials approved" for classroom use, school library purchases, or school book shops may also restrict academic freedom. Actively involving teachers in selection procedures based on written criteria to which all interested persons have access is an essential safeguard.

Because textbooks are the most common resource used in the classroom, there is a continuous struggle to control their selection. In states which use the "approved list" method of textbook selection, the school's freedom of choice is obviously limited. However, even in states which leave textbook selection to local districts, pressures from individuals or special interest groups may circumscribe freedom to teach and to learn.

C. Curriculum and Content

Subject matter selection strikes at the very heart of freedom in education. The genius of democracy is willingness to generate wisdom through the consideration of the many different alternatives available. Any pressure which restricts the responsible treatment of issues limits the exercise of academic freedom. Similarly, the mandating of curriculum or content by legislative action or legally established agencies presents a potential threat to academic freedom. When such mandates are based on the prevailing political temper, parochial attitudes, or the passions of a specific point in time, they are especially dangerous.

D. Visiting Speakers

Visiting speakers, a valuable supplement to regular school programs, may be of specific persuasion and their topic may be controversial in nature. If they are prohibited from speaking because of their point of view, academic freedom is endangered. The process of selecting speakers, like that of evaluating other educational resources, should involve the participation of teachers.

V. How Academic Freedom Can Be Preserved

If the public is adequately involved in and informed about the operation of the schools, their objectives, and procedures, strong support for academic freedom can be maintained. Teachers must, therefore, establish and utilize clear lines of communication with their students, and community and the media. When, however, the media serve as vehicles for attacks on academic freedom, the academic community should respond.

Academic freedom, like the freedoms of speech, press, and religion, is not absolute. Although educators have the primary responsibility for the teaching and learning process, they are not the only members of the community interested in or responsible for quality education. All criticism of schools is not necessarily unfair, undemocratic, or an attack upon academic freedom. Attempts to influence policy decisions as to what and how students learn and what and how they are taught are legitimate. These attempts must not, however, infringe upon the rights of others nor preempt the professional responsibilities of the teacher.

Many issues can be resolved by informal procedures. However, academic freedom, like all other freedoms, is safeguarded by established, orderly, and fair procedures for the resolution of disputes. It is fundamental that all charges must be substantiated and that the burden of proof rests upon the accuser. The accused must be informed of all charges and evidence against him and be given full opportunity to respond. Non-tenured teachers and student teachers should be given the same considerations as are their established colleagues when questions concerning academic freedom are raised.

When academic freedom is threatened, local support should be sought. Citizens in the community and local organizations or affiliates of national organizations have the primary interest and responsibility for protecting education in their communities. The PTA, local law schools, local and state colleges and universities, and the State Departments of Education are among the sources of local support. Furthermore, when an issue of academic freedom arises, securing legal or competent extralegal advice is an essential step in guarding against a possibly unfair resolution of the problem.

If local support is ineffective or inadequate, assistance from national sources should be sought.

There are many national organizations that are interested in preserving academic freedom as well as in improving the quality of the schools. In addition to the National Council for the Social Studies, they include:

1. American Association of School Librarians
2. American Association of University Professors
3. American Bar Association
4. American Civil Liberties Union
5. American Federation of Teachers
6. American Historical Association
7. American Library Association
8. National Council of Teachers of English
9. National Education Association

These suggestions are not intended to be exhaustive, but rather to indicate that a person under attack is not alone and that there are sources available from which assistance may be obtained.

Academic freedom is neither easily defined nor can it always be protected. Documents such as this, while valuable as a guideline, do not presume to constitute sufficient guarantees. Only continuing concern, commitment, and action by teachers, administrators, school boards, professional organizations, students, and the citizenry can insure the reality of academic freedom in a changing society.

Academic Freedom: A Policy Statement*

Social Studies Materials in the Free Marketplace of Ideas

A diversity of points of view is essential to education in a democracy. Among the many reasons for this position are : (1) The "Free Marketplace of Ideas" is the source of raw material from which social and economic progress is created. All positions should be heard so that the best may be chosen. (2) Students should have an opportunity to consider and evaluate differing points of view in the classroom.

Therefore, it is incumbent upon every school administrator and social studies teacher to be vigilant in detecting encroachments upon diversity of viewpoints in the classroom and to be prepared to challenge successfully such threats.

It is recognized that citizens of a community have the right to examine and criticize school materials. In order to assist school personnel in handling complaints concerning social studies materials, procedures based on due process are recommended.

A Suggested Procedure for Handling Complaints Concerning Social Studies Materials

1. All criticisms or challenges of materials should be received courteously. The critic should be thanked for his or her interest in the education of the community's children. The name of the complainant should be requested.

2. If the complainant identifies himself, he should then be informed that a procedure has been established and a "Request for reconsideration of materials" form must be completed and submitted. A form letter outlining the school policy should be available with a "Request" form attached. The need for obtaining specific information should be emphasized as essential to a speedy resolution of the complaint or the problem.

3. After the written compiaint is formally received, a responsible administrator should consult with the teacher concerned, check the material, and make a judgment. The official position of the school should be explained to all parties concerned.

4. If the administrator feels that there may be a serious public reaction or that there is some validity to the complaint, a committee should be formed to study and consider the formal complaint. At this point, the teacher and the complainant should be invited to participate in the committee meetings. It is advisable to create a standing committee to investigate complaints.

5. If the committee report does not end the criticism, the superintendent should be appraised of the situation and urged to issue a statement in the defense of the committee decision.

6. Establish policy: It is recommended that the above procedure and the following suggested model of a request form be submitted for adoption by NCSS members to their respective boards of education.

SUGGESTED MODEL

Request for Reconsideration of Social Studies Materials
Type of material (book, film, pamphlet, etc.):
Title of material:
Author (if known):
Publisher:
Date of Publication:
Request initiated by (name, address, phone number):
Do you have a child in school concerned?
Complainant represents:
(self)
(organization—name)
(other group—identify)

1. To what in the material do you object? (Please be specific. Cite words, pages, and nature of content.)
2. Why do you object to this material?
3. Are you acquainted with the range of materials being used in the school system on this general topic?
4. Do you approve of presenting a diversity of points of view in the classroom?
5. What would you like your school to do about this material?
   (a) Do not expose or assign it to my child.
   (b) Withdraw it from all students as well as my child.
   (c) Send it back to the appropriate school department for reevaluation.

Signature of Complainant
Date:

* Prepared by the Academic Freedom Committee of the National Council for the Social Studies and approved by the NCSS Board of Directors in 1967.

The NCSS Legal Defense Fund

Background Information

Prompted by two trends — one, a growing body of legal precedent which is beginning to guarantee and define constitutional rights for public school teachers; and two, an increasing number of actions against teachers resulting from changing times and the fear of changing content, new materials, and new methods — the National Council for the Social Studies has taken action to put teeth into its most recent statement in support of due process and academic freedom for social studies teachers. The Council has established a Legal Defense Fund to provide money for legal aid to a social studies teacher who is faced with an action against him which involves due process and academic freedom. The Fund is relatively small and is not intended to replace the larger sources of help such as the DuShane Fund or the American Civil Liberties Union. What the NCSS Legal Defense Fund seeks to do is act as a "first line of defense" by providing a teacher in trouble with a grant to pay the initial fee of a lawyer and to file amicus briefs. The thinking behind this is that many unjust actions might be prevented if school administrators and school boards had to deal immediately with legal counsel. The teacher applying for a grant must meet certain conditions. First, the case must fit within the broad categories of academic freedom as defined by NCSS, or constitutional rights of due process and free speech. Second, the social studies teacher must fill out an application form. Third, the teacher must hire legal counsel that is agreeable to NCSS. This condition was established because many cases that might add to the growing body of legal precedents are ruined by being handled poorly in the first instance. In the long run, it will be a body of legal precedents that protects teachers' rights to seek truth with their students.

The establishment of the NCSS Legal Defense Fund was approved by the NCSS Board of Directors on November 23, 1970. The Fund is to be built from voluntary contributions.

Policy, Control and Administration

A. NCSS Board of Directors establishes policy for the Fund and may modify these guidelines as circumstances demand.

B. The Defense Fund Committee, appointed by the Board, establishes procedures for the operation of the fund, acts upon requests for assistance, implements the policies established by the Board, and may make recommendations to the Board on policy changes.

C. A party requesting assistance may appeal a decision of the Defense Fund Committee to the NCSS Board of Directors.

D. The Defense Fund Committee may not commit the Fund to an expenditure for assistance in excess of $250.00 Any larger requests must be approved by the NCSS Board of Directors.

E. Grants for financial assistance are contingent upon actual money in the Defense Fund.

Cases and Form In Which Assistance May Be Granted

A. The specific purpose of grants of assistance is to guarantee each member of NCSS the right to be represented by legal counsel in any case involving his legal and professional rights and responsibilities to educate the young.

B. The forms of assistance provided by the Fund include:

(1) Initial payment of $100.00 for billed legal services;
(2) A supplemental payment not to exceed $150.00 for billed legal services;
(3) Advice on obtaining appropriate legal counsel.

C. The above forms of assistance may be granted to a teacher of social studies who has been or is threatened with adverse action related to his employment as the result of matters arising from professional conduct related to:

(1) Academic freedom as defined in the NCSS policy statement "Academic Freedom and the Social Studies Teacher," adopted in November, 1969, in Houston, Texas;
(2) Constitutional rights of free speech as they apply to teachers;
(3) Constitutional rights of due process.

Eligibility of Individuals

A. The individual is a member of NCSS or the case will be precedential and beneficial to all social studies teachers.

B. The individual is or will be represented by a legal counsel who is agreeable to NCSS.

C. The individual completes the Application for Financial Assistance.

For application forms write or call:
NCSS Legal Defense Fund
National Council for the Social Studies
3501 Newark Ave., N.W.
Washington, D.C. 20016
(202) 966-7840

Your Support is Needed
to insure
the Success of the Fund.
Send Your Tax Deductible Donations
to the NCSS Legal Defense Fund
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